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8 IN RE ALIGN TECHNOLOGY, INC.
9 DERIVATIVE LITIGATION

10 Case No. 19-CV-00202-LHK
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ORDER STAYING CASE

18 On February 26, 2019, the Court entered an Order consolidating three actions for all
19 purposes under the instant case No. 5:19-CV-00202-LHK (the “Derivative Litigation”). ECF No.
20 29. The Court directed the parties to explain why the Derivative Litigation should not be stayed
21 pending the resolution of the securities class action (No. 5:13-CV-6720-LHK and 3:18-CV-7469-
22 LHK) (the “Securities Litigation”). *See id.*

23 On March 28, 2019, the parties filed a joint report regarding a stay of the Derivative
24 Litigation. ECF No. 30. Both parties agree to a stay of the instant Derivative Litigation; however,
25 the parties dispute the duration and terms of the stay. *See id.* In particular, Plaintiffs argue that the
26 stay should only be in place pending any motion to dismiss ruling in the Securities Litigation. *Id.*
27 at 1–2. Plaintiffs also request that: (1) Plaintiffs be given any written discovery produced in the
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1 Securities Litigation; and that (2) Plaintiffs be invited to participate in any mediation intended to
2 resolve the Securities Litigation during the pendency of the stay. *Id.* at 1. Plaintiffs argue that
3 “[w]ithout such terms, Plaintiffs will be unduly prejudiced.” *Id.* Defendants, by contrast, argue
4 that the Derivative Litigation should be stayed until the entry of a final judgment in the Securities
5 Litigation. *Id.* at 4–6.

6 The Court hereby STAYS the instant Derivative Litigation pending resolution of the
7 related Securities Litigation. *See, e.g., In re RH Shareholder Derivative Litigation*, No. 18-cv-
8 2452-YGR, 2019 WL 580668, at *3 (N.D. Cal. Jan. 23, 2019) (finding that a derivative action
9 warrants a stay when “the securities class action has not yet been resolved” and plaintiffs in the
10 derivative action seek relief contingent upon resolution thereof). The Court finds that Plaintiffs
11 will not be prejudiced by a stay for the duration of the Securities Litigation. *See id.* (finding a stay
12 poses minimal risk of damage to plaintiffs in derivative action because the securities action
13 overlaps and because the parties in the securities action must preserve all evidence). Moreover,
14 Defendants would experience hardship if the Court were to decline to stay the Derivative
15 Litigation pending the Securities Litigation because proceeding with the Derivative Litigation
16 would divert litigation resources away from Defendants’ defense of the Securities Litigation. *See*
17 *id.* at *4 (“The concerns of hardship and equity to the moving party are especially relevant in
18 shareholder derivative cases when a securities class action suit is proceeding on the same issues.”
19 (citation omitted)). Finally, given the significant overlap between the Derivative Litigation and the
20 Securities Litigation, the Court finds that issuing a stay in the instant Derivative Litigation will
21 simplify “issues, proof, and questions of law” and will therefore help preserve judicial resources
22 and promote the orderly course of justice. *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir.
23 2005).

24 The Court denies Plaintiffs’ request for discovery and an invitation to participate in any
25 Securities Litigation mediation during the pendency of the stay. Plaintiffs may make such requests
26 to the parties in the Securities Litigation.

27 The Clerk shall close the file. This is an administrative procedure that does not affect the
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1 rights of the parties. The parties shall file a joint status update within 7 days of resolution of the
2 Securities Litigation.

3 **IT IS SO ORDERED.**

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5 Dated: April 10, 2019

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7 LUCY H. KOH
United States District Judge

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United States District Court
Northern District of California